

REMARKS**I. Status of claims**

Claims 4, and 10-14 are pending.

II. Claims 10 and 13 satisfy 35 U.S.C §112 requirements.

The specification as filed, demonstrates that a plant histone gene increases transformation efficiency both transiently and also through stable transformation. The specification also discloses a nucleotide sequence of a representative histone gene, the *RAT5* gene of Arabidopsis. Based on the guidance of the specification regarding transformation efficiency and histone genes, a skilled artisan can readily practice the full scope of the invention as claimed. Therefore, the specification as filed, provides adequate written description and enabling support for the pending claims.

One of the co-inventors of the present application, following the protocols and compositions disclosed in the specification demonstrated the effects of histones other than H2A in increasing transformation efficiency. Dr. Gelvin also demonstrated that increasing histone by electroporation also increased the transformation efficiency. Please refer to the attached Declaration under 37 C.F.R. § 1.132 by Dr. Stanton Gelvin and the accompanying Exhibits A and B.

Applicants request withdrawal of the §112 rejection and allowance of the pending claims.

III. Double patenting rejections.

Applicants hereby submit terminal disclaimers for U.S. patent 7,122,716 and co-pending application U.S. Ser. No. 10/664,658.

Applicant requests allowance of all pending claims.

IV. Summary.

Applicants thank the examiner for considering our previous amendments and response and withdrawing some of the §112 and §102(b) rejections. Applicants request that the examiner contact the undersigned representative by telephone to resolve any remaining issues prior to issuing any further Action.

No fees are believed due at this time, however, please charge any deficiencies or credit any overpayments to deposit account number 12-0913 with reference to our attorney docket number (3220-95461).

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Alice O. Martin".

Alice O. Martin
Reg. No. 35,601
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BARNES & THORNBURG LLP
P.O. Box 2786
Chicago, Illinois 60690-2786
(312)-214-8316